UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1048
2 August 1996

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fifth session

SUMMARY RECORD OF THE 1048th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 4 August 1994, at 3 p.m.

Chairman: Mr. GARVALOV

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh and twelfth periodic reports of Egypt

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.94-18271 (E)

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh and twelfth periodic reports of Egypt (CERD/C/226/Add.13)

1. The CHAIRMAN announced that the Committee had before it the eleventh and twelfth periodic reports of Egypt, merged into a single document (CERD/C/226/Add.13).

2. At the invitation of the Chairman, Mr. Khalil and Mr. Bebars (Egypt) took places at the Committee table.

3. Mr. KHALIL (Egypt), introducing his country's periodic report, said that he wished to draw attention to a number of important facts. First, each time Egypt had taken an official position in international and regional forums, it had consistently stated that it condemned racial discrimination. That position reflected a popular conception of human dignity: the people of Egypt demonstrated their condemnation of racial discrimination and segregation on a daily basis. Secondly, the guarantees essential for the observance of human rights - democracy, freedom of the press, the primacy of the law and the independence of the judiciary - were enshrined in the Constitution. They had been confirmed by the Supreme Constitutional Court, and the legislature and State were bound by them. Thirdly, in conformity with the provisions of its Constitution and its international commitments, Egypt was implementing development plans which, by securing economic development, would provide it with the necessary resources for education, literacy programmes and the like, which were indispensable for the practical realization of human rights. Fourthly, despite the difficulties it faced as a developing country, Egypt, in collaboration with specialized agencies such as UNESCO and UNICEF, had made significant progress in the field of women's literacy. Demographic growth had slowed down and the standard of living of families had risen. Information campaigns had been launched for women to establish equality between men and women in education. The number of girls and women attending school or university had increased, and many women were realizing their potential in a variety of fields. The President of Egypt had received an award from UNESCO for progress made in the education of women. Fifthly, in 1992, Egypt had established a High Council for the Mother and the Child, which was chaired by the wife of the President. Women's aspirations and the problems they encountered in the field of employment were now taken into account by the authorities. Sixthly, Egypt had attacked certain rules and traditions which had been maintained owing to illiteracy and were impeding implementation of its economic development plans. Through the major media, it had launched awareness campaigns intended to mobilize public support for those plans.

4. Turning to the contents of the report, he said that Chapter I summarized the Constitution of 1971, which had been promulgated when Egypt had already been a party to the International Convention on the Elimination of All Forms of Racial Discrimination and the two International Covenants on human rights, and which therefore incorporated all their principles and provisions. The Supreme Constitutional Court, which was responsible for monitoring the

constitutionality of laws, had issued numerous judgements confirming those principles and provisions. Conflicting legal texts had been declared unconstitutional by the Court, the report giving numerous examples (paras. 12 to 19). The relevant enactment in that regard was Act No. 97 of 18 July 1992 amending the Penal Code. It had been adopted following the submission of the country's ninth and tenth periodic reports and in conformity with the commitment made by the Egyptian delegation during its dialogue with the Committee.

5. Chapter II of the report summarized legislation concerning the application of the provisions of the Convention, namely, the Penal Code, the Political Parties Act, the Private Associations and Institutions Act, the Council of State Act, the Civil Code and the Education Act. Chapter III outlined Egypt's international position in the light of the provisions of the Convention. The annex to the report contained a table comparing the articles of the Convention with the Egyptian Constitution and legislation. His delegation was open to constructive dialogue and would give all replies or explanations requested of it, either immediately if it could or at a later date.

6. The CHAIRMAN thanked the representative of Egypt for introducing his country's report.

7. Mr. WOLFRUM (Country Rapporteur for Egypt) thanked the Egyptian delegation, particularly for the new information it had furnished to the Committee, and welcomed Egypt's desire to pursue its dialogue with the Committee. It was none the less regrettable that the report had not been prepared in conformity with the general guidelines regarding the form and contents of reports to be submitted by States parties (CERD/C/70/Rev.3); it did not follow the order of the articles of the Convention. Egypt had indeed submitted a core document (HRI/CORE/1/Add.19), but it did not contain the demographic data requested; it simply indicated that 94.2 per cent of the population were Muslims, the rest being Christians. The report was basically concerned with the Constitution and Egyptian legislation. He would have preferred it to contain information on judicial decisions, of which there were a few, and administrative measures adopted, of which there were almost none. He drew attention to article 9 of the Convention, which served as a foundation for the system of preparing reports: "States parties undertake to submit ... a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention ...". A constitution or a law, however well designed, was only one part of reality, a fact of which the drafters of the Convention had been well aware.

8. With regard to the ethnic composition of the Egyptian population, although the ancestors of present-day Egyptians had belonged to a number of ethnic groups - Africans, Arabs, Berbers, Greeks, Persians, Romans and Turks, the present population was considered to be relatively homogeneous. Mr. Khalil himself had previously told the Human Rights Committee that Egypt had practically no experience of the phenomenon of minorities, as all Egyptians were equal before the law, and no group could be considered to constitute a minority. Incidentally, the Committee did not deal with

"minorities", a term which did not appear in the Convention. When Egypt had submitted its initial report to the Human Rights Committee in 1984, its representative had stated that the implementation of the International Covenant on Civil and Political Rights has not been a problem as minorities formed an integral part of Egyptian society. He had explicitly referred to the Nubians, the major Arabic-speaking ethnic group of southern Egypt. He noted the contradiction between those two statements.

9. In any event, approximately 3 per cent of Egyptians could be considered as belonging to different ethnic groups. There were very small communities of Armenians and Greeks, the majority of whom lived in Cairo and Alexandria; small groups of Berber origin who lived in the oases of the western desert; Nubians in the cities of Lower Egypt and the villages along the Nile in Upper Egypt; and Bedouins in the western and eastern deserts and the Sinai Peninsula. According to available statistics, some 350,000 Greeks had been estimated to be living in Egypt in 1989, of whom probably very few had been of Egyptian nationality. In 1990, the majority of Greeks in Egypt had been living in Alexandria, but there had been some in Cairo. He wished to know the current number of Greeks living in Egypt - quite likely much lower than in 1989 - and what their economic and social situation was.

10. Armenians had also been living in Egypt for several centuries. Their numbers had none the less declined since 1952 following major emigration. Again according to available statistics, in 1989 some 12,000 Armenians had been estimated to be living in Egypt, most of them in Cairo but also some in Alexandria. For them as well he wished to know the current number, nationality, and economic and social situation. The number of Egyptians of Berber origin was estimated at 6,000. They lived primarily in the western desert, close to the Libyan border, and were part of the Berbers of north Africa. They had their own language and cultural practices. He also wished to know what their economic and social situation was and whether the Egyptian Government was doing anything to safeguard their cultural distinctness.

11. The largest group was the Nubians, divided into three ethnic groups. In 1990, they had numbered some 160,000 in Egypt, primarily in Cairo and Alexandria, and in the towns along the Suez Canal. In the past, the Nubians had lived in villages scattered along the Nile for about 500 kilometres from Aswan to inside Sudan. The power of the central Government over Nubia had been very limited but Nubia had preserved close ties, particularly economic, with Lower Egypt. Since the late nineteenth century, Nubian men had been migrating to the cities of Lower Egypt. They would leave for several years, earning their living as small businessmen or employees and returning to their homes often enough to maintain family ties. Nubian society had adapted remarkably well to the prolonged absences of the migrants. As of 1952, the central Government had begun to take a greater interest in Nubia, building schools and providing the region with health-care services. The construction of the Aswan Dam, with the resultant flooding of Nubia, had changed the situation completely. In 1963 and 1964, the Government had resettled approximately 50,000 Nubians in 33 villages located around Kawm Umbu, about 50 kilometres north of the city of Aswan. Those Nubians had received

new lands and houses as well as some financial support. Their new situation, however, had not pleased them: they had not liked their new housing, which was totally different from their traditional houses. Furthermore, their resettlement in Kawm Umbu had destroyed family ties and ignored historical rivalries that pitted the three Nubian ethnic groups against one another. In addition, the Government had forced the Nubian farmers - all farmers, in fact - to become members of farming cooperatives and to grow sugar cane, which was not one of their traditional crops. Discontent had prompted many Nubians to migrate to the cities. Once the Aswan Dam had been completed in 1971, a small number of Nubians had left their resettlement zone and returned to Nubia, where they had built villages on the banks of Lake Nasser. In the early 1980s, the Nubians had rebuilt at least four farming villages in the traditional style. He asked the representative of Egypt for information on the Nubians. Was it true that they were traditionally regarded as servants and workers? Or did the rest of society regard them as equals? He quoted a phrase from a children's song which he had heard sung by a Nubian, and which referred to "children (Nubian children) stealing dates". Such expressions were often indicative of the reality of daily life.

12. The Bedouins, who traditionally lived in the eastern and western deserts and the Sinai Peninsula, were not considered by the Government as constituting a specific ethnic group. Some of them, however, seemed to consider themselves as such. He would not say more on the matter, since the Bedouins were all but integrated and had almost completely abandoned their nomadic lifestyle. The only exceptions were those living near the Libyan border, who traded with Libya, and those living in the Peninsula who traded cattle with Saudi Arabia. The entire question of ethnic groups had not been properly dealt with in the report of Egypt, given that the Committee had asked for information on the subject during its consideration of the previous reports.

13. The Copts were probably a religious group and not an ethnic group. He asked the delegation if it could give an assurance that the Copts were not subjected to any form of discrimination in everyday life, not at the hands of official authorities but other citizens. Could they go about their daily business and practise their religion unhindered? Did the Government provide them with protection in that regard? They had apparently suffered some discrimination in the past but concern had declined greatly over the past five or six years.

14. Before considering the report in detail, he wished to ask a general question. What position did the Convention occupy in Egyptian law? He was under the impression that the Constitution distinguished between two categories of treaties: those that had been approved by the National Assembly and those that had been ratified only by the President. If that were so, into which category of treaties did the Convention fall? What was its place in Egyptian law? What was the role of the Supreme Constitutional Court in the event of conflict between an international treaty (and the Convention in particular), and Egyptian legislation? He understood that such a treaty did not automatically take precedence over domestic law. Was that the case?

15. Referring to paragraphs 3 to 23 of the report and the comparative table in the annex, in which the provisions of the Constitution were compared with those of the Convention and other Egyptian laws, he said that the Constitution did not appear to reflect articles 1 and 2 of the Convention. In conformity with article 40 of the Constitution, "all citizens are equal before the law in regard to their public rights and obligations, without distinction as to sex, origin, language, religion or belief", but no mention was made of colour or ancestry. The expression "equality before the law" was used in a number of Constitutions and meant only that the law was applied without discrimination, which was quite inadequate. In that regard, he cited the position of India, whose Constitution both postulated the principle of equality before the law (art. 15) and prohibited all discrimination on grounds of religion, race, caste, etc. (art. 15). He wished to know if the Supreme Constitutional Court had rendered decisions based on article 40 of the Constitution and, if so, what interpretation had been given to that article. The report considered in detail the human rights recognized by the Egyptian Constitution. It was stated, on the one hand, that the Constitution was the basic law which, from the legislative standpoint, ranked higher than other legal texts and, on the other hand, that violation of the fundamental freedoms and rights of individuals constituted a violation of "public order". He wished to know what was meant by that term.

16. Article 14 of the Constitution provided that citizens had the right of access to public office (art. 5 (c) of the Convention, para. 9 of the report). It would be useful to have some concrete examples showing that officials could be dismissed from their posts only for disciplinary reasons, except in cases prescribed by law. In conformity with articles 16 and 17 of the Constitution, the State committed itself to providing cultural, social and health-care services for all citizens under the conditions provided for by law. He wished to know precisely what that right covered. Had the supreme Constitutional Court rendered any judgements on the matter? And was there a guarantee against any form of racial discrimination? Article 55 of the Constitution stipulated that Egyptians had the right to form associations, with the exception of associations whose activities were opposed to the social system or of a clandestine or military nature. Those provisions were set forth in article 86 bis of the Penal Code and the Private Associations and Institutions Act (No. 32) of 1964. It would be interesting to have more information on the matter, and on the formation of political parties. It was possible that the Political Parties Act (No. 40) of 1977 met the requirements of article 4 of the Convention, but the report did not give any precise information on that point. It was also incomplete on obligations under article 2 of the Convention (para. 1 (a), (c) and (d)). It was not enough to state that all Egyptian legislation without exception was free from any provision commending encouraging or advocating racial discrimination. It would also be useful to have more information on foreigners living in Egypt, their status and rights, the nationality of children (reported to number 250,000), born of an Egyptian mother and a foreign father, and cases of discrimination brought before the Supreme Constitutional Court. Did the Government plan to adopt a bill on the subject? And he would welcome more specific information on the Islamic fundamentalist movement and the steps the Government had taken to protect tourists, members of the Coptic Church, foreigners and others, from attacks and persecution by such extremist groups operating within a democratic society.

17. Mr. VALENCIA RODRIGUEZ thanked the Egyptian delegation for the presentation of its report and thanked Mr. Wolfrum for his systematic and exhaustive analysis of the report. He would limit himself to a few observations. First of all, he welcomed the fact that the first part of the report analysed the Constitution in detail in the light of the provisions of the Convention and that the annex contained specific information and references concerning other Egyptian laws in force. It was apparent from reading those texts that human rights and freedoms came within the realm of public order, that anyone who violated them incurred penal, civil, disciplinary or political liability, and that victims were assured of receiving equitable compensation. That principle was all the more important given that the Egyptian State was based on the rule of law.

18. He also called the attention of Committee members to article 57 of the Constitution, which provided for the imprescriptibility of civil and criminal proceedings in cases of human rights violations and State compensation for the victims. More information on the subject would be welcome. Paragraph 11 of the report stated that legislative texts that contradicted, violated or prejudiced human rights had been declared unconstitutional by the Supreme Constitutional Court. He wished to know whether certain judgements had referred specifically to the question of racial discrimination. Regarding the implementation of article 4 of the Convention, he regretted the absence of legal provisions aimed at eradicating all incitements to racial discrimination. The Egyptian Penal Code clearly stated that "it is a criminal offence to establish, found, organize or administer any association, body, organization, group or gang which in any way advocates violation of the personal liberty of citizens or their public rights and freedoms guaranteed by the Constitution and the law or seeks to prejudice national unity and social harmony". That provision was in conformity with the Political Parties Act (No. 40) of 1977 and with the second part of article 4 of the Convention. The Penal Code should none the less be given a broader interpretation so as to permit proper implementation of the provisions of article 4 (a) (prohibition of the dissemination of ideas based on racial superiority or hatred). He therefore asked the delegation to give closer consideration to Egypt's commitments under article 4 of the Convention and to review the scope of the provisions contained in the Penal Code.

19. Regarding the implementation of article 6 of the Convention, he noted that the Egyptian legislature had endeavoured to ensure full legal protection for all individuals, without any discrimination whatsoever, from administrative decisions taken by the public authorities; however, it did not provide for recourse against any act of racial discrimination. He would also like to have more concrete information on the objectives of the Education Act (No. 139) of 1981, which called for charity, truth and humanity to be held in high esteem. What were the concrete measures taken by the Government in that regard? And it would be useful to have more precise information on the implementation in Egyptian law of article 7 of the Convention, which committed States parties to promote understanding, tolerance and friendship among nations and ethnic groups.

20. Mr. de GOUTTES thanked the Egyptian delegation, particularly Mr. Khalil, President of the Cairo Court of Appeal. He wished to add his own comments to the very thorough comments already made by Mr. Wolfrum and

Mr. Valencia Rodríguez. Consideration of the report of Egypt was particularly important for the Committee, in the first place because Egypt - located as it was at the crossroads of Africa, the Middle East and the Mediterranean, where the influences of several continents converged, and open to African, Arab, Muslim, Christian and European cultures - was a key country from a geopolitical and cultural standpoint. Secondly, it was important because Egypt was currently the scene of an often dramatic confrontation between two opposing trends: on the one hand, the democratic movement, which had been deeply rooted in Egypt for many years, had succeeded in creating a spirit of openness and tolerance, and promoted women's rights, and on the other, the rise of Islamic fundamentalism and extremism in its most violent forms - a confrontation which was currently being played out in several other countries as well. Egypt's ability to overcome that contradiction therefore served as a test case for a number of countries experiencing similar problems. The Committee should therefore follow current developments in Egyptian society closely, particularly in the light of the principles and requirements of the Convention.

21. With regard to the twelfth periodic report of Egypt, he had two types of comments to make. First, as Mr. Wolfrum had said, the report contained a detailed analysis of the provisions of the Egyptian Constitution and legislation in the light of the principles of the Convention, but that analysis was limited to the texts and did not take into account the effective and practical implementation of the Convention in Egypt. The political, social, economic and demographic context in which it was being implemented was lacking. In particular, there were no data on the current composition of the Egyptian population, which included some very diverse elements (Arabs, Armenians, Nubians, Berbers, Greeks, nationals and migrant workers from neighbouring countries, including Jordanians and Israelis) and very skimpy data on the various religious communities (Muslims, Christians and Copts). More specific information on the difficult relations between Muslims and Copts in certain regions of the country, particularly around Asyût, would have been useful. Such information had already been requested in 1989, during consideration of the tenth periodic report. The report also contained no information on the number of complaints brought before the courts for acts of racial discrimination, prosecutions actually initiated and sentences pronounced. Mr. Wolfrum had been right to point out that what mattered more than enactments was their effective and practical implementation.

22. Secondly, even from an analysis of the enactments alone, it did not seem that the requirements of the Convention were fully satisfied in Egyptian law. Admittedly, it was apparent from paragraphs 3 et seq. of the report that the Convention had become an integral part of Egyptian law and that the Constitution recognized its major principles, particularly that of the equality of all citizens before the law without any distinction (art. 40 of the Constitution), although from a reading of the text of that article equality seemed to apply to citizens and not all persons. A terminological explanation was needed. By contrast, there were apparently no specific provisions in the Penal Code which declared punishable each of the various offences of racism, as called for by article 4 of the Convention. The enactments cited were very general, except for the 1992 amendments to which Mr. Khalil had referred. Article 2 of the Constitution, which referred to the principle of Islamic Shari'a, the articles of the Penal Code banning

organizations and associations which violated the rights of individuals in general (para. 32 of the report), the Political Parties Act (para. 35 of the report), the Private Associations and Institutions Act (para. 37 of the report), and the provisions of the Civil Code (paras. 43 and 44 of the report), were all general in scope and did not specifically deal with racial discrimination; they did not therefore meet the requirements of article 4 of the Convention.

23. He had three questions to ask. First, according to paragraph 33 of the twelfth report, article 57 of the Constitution stipulated that neither criminal nor civil proceedings arising from violation of the public rights and freedoms guaranteed by law were statute-barred. That constitutional provision forbidding prescription was very original and therefore appeared to be very broad in scope. Did it cover all racist acts? What were the criminal offences which could be prescribed? Secondly, paragraphs 47 and 48 of the report referred to the right of every Egyptian child to basic education, which the State had an obligation to provide. What about non-Egyptian children? Did they have a right to education? Thirdly, several non-governmental organizations (including Amnesty International, Human Rights Watch) had cited discrimination against, and ill-treatment of, people who sympathized with banned Islamic groups, including unfair trials under emergency legislation. That question should be considered with the greatest caution and sensitivity. The members of the Committee were fully aware that the Egyptian State had to maintain a difficult and delicate balance between, on the one hand, the requirements of democracy and freedom of opinion and expression (without discrimination) and on the other the need to combat extremist groups that advocated intolerance and fanaticism and resorted to acts of violence that flouted human rights, including those embodied in the Convention. The Egyptian authorities obviously had to protect public order, but they in doing so should keep two requirements in mind: proportionality, and the protection of the security of individuals. As Mr. Wolfrum had also said, it would be interesting to know what the Government was doing to protect the populations targeted by extremist attacks (including religious communities, academics, judges, police officers and foreigners). Explanations of how the Government intended to deal with the problem would be of very great interest to the Committee.

24. Mr. SONG said he had read the report of Egypt with the greatest interest, as it had given him an overall idea of that country's legislation. The comparative table in the annex was particularly enlightening. However, the report was not entirely in conformity with the Committee's guidelines; there were no demographic data and, especially, no information on the ethnic make-up of the population. Furthermore, although it contained a good deal of information on legislation, information on judicial and administrative matters was lacking; such information was very important in order to gain an idea of how the Convention was actually being implemented. It should, for example, be stated whether there had been cases of human rights violations by law enforcement officials, how often that occurred and whether those responsible had been punished. According to paragraph 9 of the report, among the human rights principles enshrined in the Constitution was "equality between men and women ... and a guarantee by the State of reconciliation between women's

obligations to their families and their work in society". He did not understand why the State had to provide such a guarantee if equality between men and women was a reality.

25. Mr. BANTON said that he wished to make some suggestions for the preparation of future reports, two of which would undoubtedly be presented jointly by Egypt in January 1996. First of all, some of the information contained in the present report had nothing to do with racial discrimination and would be more suited to a core document. The question arose whether the next report should be a comprehensive report or simply an update. The Committee was currently trying to find ways of easing the burden on States parties, but in his opinion, Egypt's next report should be comprehensive, given that some fundamental questions had been raised by Mr. Wolfrum and other members of the Committee. The State party should also take into account the Committee's general guidelines on the preparation of reports, and also its recently adopted general recommendations, particularly recommendations XI, XIII, XIV, XV and XVII.

26. As to the implementation of article 4 of the Convention, he wished to know if there was reason to believe that publications inciting racial hatred of Jews were disseminated in Egypt, such as the "Protocols of the wise men of Zion", which was known to be circulating in certain countries, although not always in printed form. The dissemination of that type of text should lead to prosecution, and it would be useful to know if such proceedings had been initiated in Egypt and what the results had been. Judaism was of course a religion, but those who attacked Jews were generally motivated not by religious considerations, but simply by hatred of a human group, who must accordingly be protected by the provisions of the Convention.

27. Concerning article 5 of the Convention, during the discussion on the previous report of Egypt in 1989, that country's representative, citing certain groups which had been mentioned by Mr. Yutzis, namely, the Greek and Armenian minorities, had said that to his knowledge those minorities had not been the victims of any form of discrimination; if they had been Egyptian nationals, they had not been subjected to any discrimination at all, and if they had not been, they had been covered by article 1, paragraph 2, of the Convention. With reference to that paragraph, as far as non-nationals were concerned, the State party should refer to general recommendation XIII (1993). When the representative of Egypt had stated in 1989 that those minorities had not been subjected to any discrimination at all, he had certainly been thinking of enactments rather than actual experience. The testimony of the representative of the authorities of a State was certainly of great value, but it was generally not based on direct experience of the everyday life of persons who risked being the victims of discriminatory practices; other testimony on that question would carry greater weight - that of researchers, for example, who might have done surveys of vulnerable groups in order to ascertain their feelings on the matter. Egypt was not lacking in specialists who could carry out that type of research with the greatest competence and testify very convincingly on the situation of those persons.

28. With regard to effective remedies referred to in article 6 of the Convention, of which Mr. Valencia Rodríguez had already spoken, he drew attention to the relevant passage in the annex to the report (p. 28), which

referred to judgements handed down concerning the principle of legal redress: that information was of particular interest to the Committee, but unfortunately the reader was referred to page 10, paragraph 2 (b), of the report, which had nothing to do with the question. The reference was probably to the Arabic text, but he would very much like to know where the pertinent passage was to be found in the other language versions.

29. Mrs. SADIQ ALI said that she agreed with the comments and questions raised by Mr. Wolfrum and wished to add a few more observations. First, there was no reference in the report to the state of emergency that had been in force since 1981: it would be useful to know how that affected the Constitution and what effect it had on the implementation of article 5 of the Convention. The organization Middle East Watch in its 1992 report had reported a large number of violations of human rights and mentioned the situation of the Palestinians detained in Abu Za'Bal Lemain prison, including residents of the occupied Arab territories who had reportedly entered Egypt as asylum-seekers, fearing that they would be killed by Israeli security forces. She wished to know what had become of them, how many Palestinians were in Egypt and how many of them had been repatriated. According to the Egyptian Organization for Human Rights, an organization called the Islamic Group was terrorizing Christians in Manishiet Nasser, all of whose commercial transactions, including real estate sales, were subject to the group's prior approval, and allegedly levied a tax on every transaction. All public celebrations, whether religious or not, were said to be proscribed, and churches could not be kept in good repair; if the edicts of the Islamic Group were not obeyed, both legs and the right arm of the offender were allegedly broken. She asked what the authorities were doing to protect the 6 to 8 million Christians in Egypt, who seemed to be extremely vulnerable.

30. Mr. YUTZIS requested clarification concerning what struck him as a contradiction. On the one hand, at the beginning of paragraph 28 of the report it was stated that article 40 of the Convention stipulated that all citizens were equal before the law "without distinction as to sex, origin, language, religion or belief"; there was no reference in that article to discrimination on grounds of race. Paragraph 28 (b), however, indicated that there was no special legislation in Egypt to be applied exclusively to a particular category of citizens or other persons "on the basis of race, colour, descent or national or ethnic origin". He would welcome clarification on what seemed to him to be at the very least a lacuna. He pointed to another apparent contradiction between two enactments on freedom of the press. On page 30 of the report reference was made to the Censorship of Artistic Works Act (No. 430); it was explained that such works were subject to censorship in order to protect public morals or safeguard security, public order or the higher interests of the State. On the same page of the report it was stated that under article 208 of the Constitution, freedom of the press was guaranteed and censorship prohibited. It therefore seemed that the censorship of artistic works did not carry over to literary works. Clarification would be welcome.

31. According to paragraph 26 of the report, "the Egyptian legislature must adopt the Islamic Shari'a as its primary source". That was certainly understandable in the cultural context of Egypt, but it meant that Egyptian law was essentially based on a religious tradition. But paragraph 36 of the

report stated that the Egyptian legislature prohibited the establishment of any political party "on the basis of social class, religious confession or faction or on the basis of discrimination on grounds of sex, origin, religion or belief". If those texts were compared, it could logically be asked whether a minority group not practising the Islamic faith could create a political party. For example, would a Christian Democrat Party be recognized? In raising the problem, he had no wish to appear impertinent; in his own country, Argentina, the question of the separation of Church and State was very much on the agenda, and seemed to be a crucial problem with regard to the protection of minorities.

32. Mr. FERRERO COSTA associated himself with previous speakers, particularly Mr. Wolfrum. Returning to paragraph 28 of the report, to which Mr. Yutzis had referred, he expressed surprise at the wording of subparagraph (a), according to which Egyptian legislation was "free from any legal provision commending, encouraging or advocating racial discrimination, distinction, exclusion, restriction or preference based on race ...". That wording seemed to invert the problem, as it was quite clear that the State did not encourage racial discrimination, which would be contrary to jus cogens. He asked the delegation for more information.

33. According to paragraph 32 (a) of the report, actions intended to "prejudice national unity and social harmony" constituted criminal offences. He wondered how that provision should be interpreted and whether, for example, a minority group whose leanings were different from those of the majority could be guilty of such an offence. He was not sure that such a provision was not conducive to racial discrimination.

34. Paragraph 35 stated that article 22 of the Political Parties Act laid down the penalty of hard labour for life or for a specified term for the establishment, administration or financing of an illegal party "hostile to the social system". He asked how the concept of hostility should be interpreted. The term "public order" in paragraph 38 also called for clarification, and more precise information was needed on the country's legal principles and practice.

35. Turning to the implementation of article 4 of the Convention, he noted that Egyptian legislation was not exactly in conformity with its provisions, which called on States to adopt specific measures. Like other members, he regretted the lack of information on concrete measures taken by the authorities to give effect to the Convention. That shortcoming should be addressed in Egypt's next periodic report, particularly with regard to the implementation of article 5 of the Convention. The thirteenth report should also give information on the country's demographic composition.

36. Mr. DIACONU welcomed the fact that the Supreme Constitutional Court had handed down judgements protecting human rights and had declared unconstitutional legal instruments which undermined those rights. However, in the paragraphs dealing more specifically with the various rights protected, none of the international human rights instruments was mentioned, the Supreme Constitutional Court referring only to the Constitution. He asked on what basis the Court could decide that a law which was contrary to the Convention was unconstitutional. The imprescriptibility of acts contrary to human rights

was in itself a concept of the greatest importance in theoretical terms, but was very difficult to put into practice, as it presupposed that files remained open and that people remained subject to the law for decades.

37. The concept of public order, which some found difficult to interpret, was a set of social values peculiar to each country and to which certain laws were connected. As far as he knew, those laws were not subject to repeal. Human rights provisions came within the realm of public order in most countries; they could not be waived and the authorities could not derogate therefrom, even by agreement with a person, by promise or by contract. The concept therefore found its real application within the framework of human rights.

38. Like other members, he noted that Egyptian legislation did not directly reflect article 4 of the Convention and that there was no enactment clearly banning organizations that encouraged or engaged in discrimination. He was surprised that there was no mention of the word "race" in the legislation of a country that lay at the crossroads of so many civilizations and races. During the consideration of Egypt's previous report, the delegation had announced that legislation intended to punish racial discrimination was to be adopted, but there was no mention of such legislation in the report currently under consideration. It was, however, possible that parties or associations had been banned on grounds of racial discrimination under provisions that did not expressly cover that offence. If that were the case, the Committee would like to be informed. He asked whether foreigners were subject to a specific legal regime and, if so, what its contents were. And he wished to know whether, apart from the schools which provided education in Arabic, French or English, there were any schools providing education in Greek, Armenian or other languages and whether there were any newspapers in languages other than Arabic, French and English.

39. Mr. van BOVEN recalled the leading role Egypt had played in drafting the Convention, its eagerness to ratify it and all the specific experience which experts who were independent but of Egyptian nationality had brought to the Committee since its creation. As noted in paragraph 3 of the report, Egypt had acceded to the human rights Covenants before it had drafted its Constitution, which thus enshrined all the principles and provisions set forth in the Covenants.

40. Section II of the report dealt more specifically with the manner in which article 4 was implemented. Like other members, he believed that the legislation cited did not constitute a specific response to article 4 of the Convention or to general recommendation XV (1993) of the Committee, in which the Committee recalled that States parties were required to penalize the dissemination of ideas based upon racial superiority or hatred, incitement to racial hatred, acts of violence against any race and incitement to such acts. Generally speaking, the report was lacking in information on measures other than legislative. Under article 2 of the Convention, States were to "pursue by all appropriate means ... a policy of eliminating racial discrimination in all its forms". The previous reports had been more informative in that regard and had contained more replies to the questions that had been raised; he hoped the next report would be more detailed.

41. The Committee believed that Egyptian law enforcement officials did not always respect the fundamental rights of persons in their custody; arbitrary action, cases of torture, etc. had been mentioned. Clearly, there were very sensitive security problems to be solved in Egypt, but the police forces should none the less act in conformity with the relevant international instruments. He advised the Egyptian authorities to take account of the Committee's general recommendation XIII (1993) on the training of law enforcement officials in the protection of human rights.

42. Likewise, the authorities should comply with general recommendation XVII (1993) on the establishment of national institutions to facilitate the implementation of the Convention. That recommendation was not an obligation, but such institutions could play a major role in implementing the Convention. It was therefore desirable that Egypt should establish a national human rights commission.

43. Mr. AHMADU said he was particularly interested in the report of Egypt since a constitution was currently being drafted in his own country and the issue of Shari'a in a secular State like Nigeria was a very thorny one. He, too, regretted that there was nothing in the report about the implementation of the legal provisions compatible with the Convention which were mentioned therein. He asked whether those provisions had ever been invoked in order to initiate prosecution proceedings. The presence of foreigners and minorities, particularly Jews and Greeks, was established, but the report made no mention of them. The Committee could not disregard that omission. He believed there was an incompatibility between two obligations. On the one hand, as stated in paragraph 26 of the report, Islamic Shari'a must be the primary source of Egyptian legislation, in accordance with article 2 of the Constitution; and on the other hand, article 64 of the Constitution stated that the rule of law was the basis of government. To avoid that dilemma without succumbing to discrimination would require genius. He asked the Egyptian representative to explain how those two principles were respected in practice. Like several other members, he noted that the Egyptian legislature seemed to have an aversion to the word "race", just as others had an aversion to the word "tribe". The Committee would gain greatly from an explanation of why certain States were reluctant to use words that appeared in the Convention, to which they were parties.

44. Mr. CHIGOVERA said that he would address new aspects of certain points that had already been raised. Upon reading the report and other documents, he had been struck by the incompatibility between certain constitutional guarantees and the considerable restrictions imposed on the freedom of peaceful association and assembly. Thus, all sorts of guarantees, enumerated in paragraph 3, were established by the Constitution, but the authorization of the Ministry of the Interior was needed for parades, public meetings and demonstrations. That was perhaps explained by necessity but still contravened the Constitution. Similarly, freedom to take part in political life did not seem to be untrammelled. To set up a new party, a newspaper or a private political organization required government authorization. In that respect there seemed to be a violation of the right to form or join a political party of one's choice and a violation of article 5 (c) of the Convention. Paragraph 15 of the report referred to decisions by the Supreme Constitutional Court that legislative provisions entailing the deprivation of political

rights (right to vote and to stand for election) were unconstitutional. The fact that the Government could decide who had the right to enter politics by forming a party was not consistent with the Convention.

45. The right to a nationality, protected under article 5 (d) (iii) of the Convention, did not seem to be completely respected in so far as, according to a February 1994 report on human rights by the United States, only Egyptian male citizens could pass on their nationality. According to the same report, the right to freedom of conscience and religion enjoyed scant respect since Arab schools forbade the hiring of Christian teachers. Human rights organizations were tolerated in Egypt, according to the same report, but were not officially authorized on the grounds that they had a political orientation.

The meeting rose at 6 p.m.